IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN THE MATTER OF THE COMPLAINT OF CENTRAL CONTRACTING & MARINE, INC. FOR EXONERATION FROM, OR LIMITATION OF, LIABILITY.	))))))	Case No. 4:15-cv-01111-HEA In Admiralty

THOMAS INDUSTRIAL COATINGS, INC.'S FIRST AMENDED ANSWER
TO CENTRAL CONTRACTING & MARINE, INC.'S THIRD PARTY COMPLAINT

COMES NOW Claimant/Third Party Defendant Thomas Industrial Coatings ("Thomas" or "Third Party Defendant"), by and through its counsel, Fox Galvin, LLC, and for its First Amended Answer to Central Contracting & Marine, Inc.'s ("Central") Third Party Complaint ("Third Party Complaint"), states as follows:

1. Thomas admits the allegations contained in paragraph 1 of the Third Party Complaint.

2. Thomas lacks the knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Third Party Complaint.

3. Thomas lacks the knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the Third Party Complaint.

4. Thomas admits the allegations contained in paragraph 4 of the Third Party Complaint, except the allegation that the material used to clean the steel surfaces was sand, which Thomas denies.

5. Thomas admits that St. Louis Bridge was the general contractor for the rehabilitation project. Thomas lacks the knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 5 of the Third Party Complaint.

EXHIBIT A

6. Thomas admits the allegations contained in paragraph 6 of the Third Party Complaint.

7. The allegations contained in paragraph 7 of the Third Party Complaint are legal conclusions to which no response is necessary. To the extent the allegations are construed as requiring a response, the allegations are denied to the extent the allegations are inconsistent with controlling law.

8. The allegations contained in paragraph 8 of the Third Party Complaint are legal conclusions to which no response is necessary. To the extent the allegations are construed as requiring a response, the allegations are denied to the extent the allegations are inconsistent with controlling law.

9. Thomas admits that Central was the operator of the M/V DANNY BRADFORD. Thomas lacks the knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 9 of the Third Party Complaint.

10. Thomas admits that on July 16, 2015, the M/V DANNY BRADFORD struck the Eads Bridge and the SafeSpan attached thereto. Thomas denies the remaining allegations contained in paragraph 10 of the Third Party Complaint.

11. Thomas admits that on July 16, 2015, James Pigue was on the SafeSpan on the Eads Bridge working on the rehabilitation project when the M/V DANNY BRADFORD struck the Eads Bridge and the SafeSpan. Thomas denies all other allegations contained in paragraph 11.

12. Thomas denies that Mr. Pigue did not have fall protection.

13. Thomas admits that Mr. Pigue died as a result of the incident. Thomas denies the remaining allegations in paragraph 13 of the Third Party Complaint.

14. Thomas lacks the knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 14 of the Third Party Complaint.

15. Thomas denies the allegations directed to Thomas in paragraph 15 of the Third Party Complaint and all subparts contained therein.

16. Thomas denies the allegations contained in paragraph 16 insofar as they are directed at Thomas.

AFFIRMATIVE DEFENSES

As and for its affirmative defenses to Central's Third Party Complaint, Thomas states:

1. Central's Third Party Complaint fails to state a claim against Thomas upon which relief can be granted.

2. Central's alleged damages, if any, were not caused by any act or omission by Thomas, but were the result of an independent intervening and/or superseding cause for which Thomas is not responsible.

3. Central's M/V DANNY BRADFORD allided with a stationary object in broad daylight and clear weather and, therefore, Central has the burden of proving the absence of fault or inevitable accident. The Oregon, 158 U.S. 186 (1895).

4. Central's negligence and/or the unseaworthiness of the M/V DANNY BRADFORD were the sole cause of the incident.

5. In the event that Central violated applicable statutes and regulations, it is presumed that said statutory and/or regulatory violations were the sole cause or at least a contributing cause of the incident, and Central can avoid liability only by showing that said statutory and/or regulatory violations could not have been a cause of the incident. The Pennsylvania, 86 U.S. (19 Wall) 125 (1874).

6. In the event that this Court should find that any fault by Thomas was a proximate cause of the incident, which Thomas denies, Thomas alleges that any recovery by Central against Thomas should be reduced by the comparative fault of Central and/or other third parties or instrumentalities for whom Thomas is not responsible.

7. Central's Third Party Complaint against Thomas is precluded by § 287.120 R.S.Mo.

WHEREFORE, Thomas Industrial Coatings, Inc., respectfully requests that this Court enter its judgment denying all relief sought by Petitioner and awarding Thomas Industrial Coatings, Inc., its costs incurred herein and such other and further relief as the Court deems just and proper.

/s/ Theodore H. Lucas
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CERTIFICATE OF SERVICE

The undersigned certifies that service was made by means of the Notice of Electronic Filing, this 1st day of July, 2016, to the following counsel of record:

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